

**IN THE UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS**

**SERONO, INC. and INDUSTRIA
FARMACEUTICA SERONO SpA,**

Plaintiffs,

v.

FERRING PHARMACEUTICALS, INC.,

Defendant.

CIVIL ACTION NO. 04-10305 MLW

STIPULATED MOTION TO ENLARGE TIME FOR REPLY

NOW COME Plaintiffs Serono, Inc. and Industria Farmaceutica Serono SpA (collectively, “Serono”) and Defendant Ferring Pharmaceuticals, Inc. (“Ferring”), by their undersigned attorneys and pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, and for their Stipulated Motion to Enlarge Time for Reply, state as follows:

1. On May 26, 2004, the Court held a conference in chambers with the parties regarding this action and a related case, *Serono, Inc. v. Ferring Pharmaceuticals, Inc.*, Civil Action No. 02-11832-MLW (D. Mass.) (hereinafter referred to as “The A Case”). As a result of that conference, the Court ordered a stay of proceedings until July 16, 2005 to allow for settlement discussions between the parties. The stay order was entered in The A Case. The Court also ordered that the time for Ferring to answer or otherwise plead in this action (hereinafter referred to as “The B Case”) was extended to August 16, 2004 if the parties had not reached agreement by that time.

2. Since the Court entered its Orders, the parties have been discussing settlement in a good faith effort to resolve their differences in both lawsuits. They have not reached agreement on all issues, but are continuing to pursue the possibility of settlement.

3. In early July, at the Parties request, the Court entered an Order extending the stay of proceedings until September 20, 2004.

4. Since the record did not indicate whether the extended stay covered the Court-ordered deadlines of August 16, 2004, Ferring timely filed its Answer and Counterclaims in this case, i.e., The B Case, on August 16, 2004. Ferring concurrently filed a Brief in Opposition to Serono, Inc.'s Motion to Consolidate in The A Case.

5. Under Rule 12(a)(2) of the Federal Rules of Civil Procedure, Serono's Reply to Ferring's Counterclaim in this case (i.e., The B Case) would be due on September 7, 2004.

6. The parties believe that judicial efficiency and the likelihood of settlement would be enhanced if the stay and the resumption of litigation were clarified. As a result, the parties wish to extend the time for Serono's Reply to the Counterclaims in this case and Serono's Reply in Support of its Motion to Consolidate in The A Case.

7. The parties believe that efficiency and settlement would be best encouraged if the time for Serono's replies were extended until seven days after the reopening of discovery in The A Case. Because discovery in The A Case action is currently scheduled to reopen on September

20, 2004, the parties seek to have the time for Serono's replies extended until September 27, 2004.

WHEREFORE, Serono and Ferring jointly request this Court to extend the deadline for Serono's Reply to Ferring's Counterclaims until September 27, 2004.

Respectfully submitted,

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